IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 5TH SEPTEMBER 2007 / 14TH BHADRA 1929

WP(C).No. 32156 of 2005(C)

PETITIONER:

C.SASIDHARAN, S/O.CHELLAPPAN,
AGED 51, K.P.10/5791, PODUJANAM LANE,
MEDICAL COLLEGE P.O., THIRUVANANTHAPURAM.

BY ADV. SRI.R.S.KALKURA

RESPONDENTS:
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1. **THE ESTATE OFFICER, AIRPORT AUTHORITY OF INDIA, INTERNATIONAL AIRPORTS DIVISION, THIRUVANANTHAPURAM AIRPORT, THIRUVANANTHAPURAM.**

2. **AIRPORT AUTHORITY OF INDIA, REPRESENTED BY AIRPORT DIRECTOR, THIRUVANANTHAPURAM.**

3. **ADDITIONAL GENERAL MANAGER (COMMERCIAL), AIRPORT AUTHORITY OF INDIA, TRIVANDRUM.**

4. **THANKAM.R., VIDYA ENTERPRISES, KEZHAPALKINATHANVILAI, POZHIKARA P.O., KANYAKUMARI DISTRICT.**

R1 TO R3 BY ADV. SRI.K.L.NARASIMHAN
SRI.V.SANTHARAM

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/09/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

PIUS C. KURIAKOSE, J.

W.P.(C) NO. 32156 of 2005

Dated this the 5th day of September , 2007

JUDGMENT

The appellant in CMA No.266/2002 on the files of the First Additional District Court Ernakulam, being aggrieved by Ext.P12 judgment passed by the First Additional District Court in that CMA, has filed this Writ Petition under Article 227 of the Constitution for getting Ext.P12 quashed. The First respondent is the Estate Officer, Airport Authority of India and the 2nd respondent is the Airport Authority of India, the 3rd respondent is the Additional General Manger (Commercial), Airport Authority of India and the 4th respondent is a person who had been issued with a licence by the Airport Authority of India in respect of car parking facility in front of the domestic and international terminal at the Trivandrum Airport. The petitioner submits that under sub section 2 and 2(A) of the Public Premises (Eviction of Unauthorized Occupants) Act 1971, the first respondent issued an

order to the appellant as well as the 4th respondent to pay an amount of Rs.10,12,530/- as damages on account of the Unauthorized occupation. Ext.P1 licence had been issued to the 4th respondent regarding car parking facility after submitting tender. The tender submitted was accepted and licnece was granted for three years commencing from 6.7.1999 to 6.6.2002. Subsequently, the 4th respondent had executed an irrevocable power of attorney in favour of the petitioner on 26.4.1999 for consideration received. Ext.P4 is relied on by the petitioner in this context. Pursuant to Ext.P4, the petitioner submitted security deposit by availing loans. The 4th respondent executed power of attorney because she had no experience and did not possess necessary funds for submitting the security deposits. It is alleged that later the 4th respondent with oblique motive began to obstruct the petitioner from conducting and managing the car parking facility. Thereafter the petitioner received a letter from the Bank of India informing him that the 4th respondent had cancelled the irrevocable power of attorney executed by her in favour of the petitioner. The petitioner, therefore,instituted a writ petition before this court (WPC No.25736/2000) before this

court. This court granted stay of proceedings. In the meanwhile, the 4th respondent filed Writ Petition (O.P.No.28227/2000) praying for police protection. The court directed maintenance of status quo and the question regarding collection of fees was to be decided by the Civil Court. The petitioner, accordingly, instituted O.S.No.457/2000 seeking a declaration and permanent injunction. The learned subordinate judge allowed the application filed by the petitioner for interim relief. In the meanwhile, the 2nd respondent filed Writ Appeal (W.A.No.2317/2000). In that appeal, this court permitted the 4th respondent to function as licensee and directed that in case of any default, the arrangement of the Division Bench will stand cancelled and it will be open to the respondents to re-tender. The petitioner was carrying on the management of the car parking facility as per the terms of the licence and order of the direction of this court as well as the sub court. The petitioner was shocked on receiving the order dated 7.2.2001 from the 2nd respondent informing that an amount of Rs.10,12,530/- was due as arrears of license fee. To that demand, the petitioner submitted a detailed reply stating that he was not licensee and

in case of any claim, the same should be realised from the 4th respondent. Ignoring the reply,the first respondent passed an order directing both the petitioner and the 4th respondent to pay a sum of Rs.10,12,530 with interest at the rate of 18%. Against that order CMA 266/2002 was filed by the petitioner. The 4th respondent filed CMA 238/2002. The CMAs were disposed of by common judgment. Therefore, impugning the judgment of the additional District Court on various grounds, the petitioner prays that the the said judgment be quashed.

2. I have heard the submissions of Sri.R.S.Kalkura, the learned counsel for the petitioner and those of Sri. V.Shantharam, the learned counsel for the respondents. Even though the learned counsel on either sides have addressed me in extenso, I am not inclined to interfere with the judgment of the learned additional District Judge. Supervisory jurisdiction of this court under Article 227 of the Constitution is not to be invoked for correcting each and every order passed by Subordinate courts. It cannot be said that the order passed by the learned Additional District Judge is vitiated to the extent of justifying correction under Article 227 of the Constitution. It is seen that

facts have been correctly Marshalled by the learned additional District Judge and that the issues between the parties have been correctly understood and decided. The findings of the learned District Judge cannot be said to be unreasonable. The petitioner was an agent coupled with interest and it is seen from the materials placed on record that the petitioner was asserting his independent right also.

3. The challenge against the judgment of the learned District Judge fails and the writ petition will stand dismissed. However, it is made clear that the suit should be tried and disposed of by the learned Subordinate Judge on the basis of the evidence which comes on record during trial without being unduly influenced by the judgment in CMA and of my own judgment in this writ petition.

PIUS C. KURIAKOSE,
JUDGE.

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